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H. R. 3919

To provide for a comprehensive nationwide inventory of existing broadband service, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 22, 2007

Mr. MARKEY (for himself, Mr. DINGELL, Mrs. WILSON of New Mexico, Ms. ESHOO, Mr. DOYLE, Mr. GORDON of Tennessee, Mrs. CAPPS, Mr. SPACE, Mr. HILL, Ms. SOLIS, Mr. GONZALEZ, Mr. GENE GREEN of Texas, and Mr. ALLEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide for a comprehensive nationwide inventory of existing broadband service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Broadband Census of
5 America Act of 2007”.

6 **SEC. 2. CENSUS OF BROADBAND SERVICE AND INFRA-**
7 **STRUCTURE DEPLOYMENT.**

8 (a) DUTY TO COLLECT AND REPORT.—

1 (1) ANNUAL ASSESSMENT AND REPORT.—The
2 Commission shall, on an annual basis, conduct an
3 assessment and publish a report on the deployment,
4 by bandwidth service tiers and types of technology,
5 of broadband service capability throughout the
6 States.

7 (2) BANDWIDTH SERVICE TIERS.—The Com-
8 mission shall designate bandwidth service tiers by
9 identifying tiers of increasing data transmission
10 speeds of broadband service capability that will pro-
11 vide useful, informative information about the na-
12 ture and extent of deployment of broadband service
13 capability. At a minimum, the tiers in the aggregate
14 shall encompass all data transmission speeds de-
15 ployed, and shall consist of multiple combinations of
16 upstream and downstream data transmission speeds.
17 Each tier shall be designated, to the extent possible,
18 to correspond to the ability to support qualitatively
19 different applications and services, which the Com-
20 mission shall also identify.

21 (3) INFORMATION COLLECTION.—The Commis-
22 sion shall collect information from all commercial
23 and public providers of broadband service capability
24 under its jurisdiction in each State. Such informa-

1 tion shall include, for each area encompassed by a
2 United States postal zip code of the 5 digit level—

3 (A) information concerning deployment of
4 the types of technology used to provide
5 broadband service capability;

6 (B) the actual number of residential sub-
7 scribers, small business subscribers, and large
8 business subscribers in each such area, and for
9 each tier designated under paragraph (2); and

10 (C) the advertised data transmission
11 speeds of broadband service capability offered
12 in each such area.

13 (b) EVOLUTION OF ASSESSMENT.—The Commission
14 shall periodically review both the bandwidth service tiers
15 and the types of technology utilized in its assessment
16 under subsection (a) to take into account changes in tech-
17 nology and marketplace conditions.

18 (c) INTERNATIONAL COMPARISON.—

19 (1) INTERNATIONAL COMPARISON.—As part of
20 the assessment and report required by this section,
21 the Commission shall include information comparing
22 the extent of broadband service capability (including
23 data transmission speeds and price for broadband
24 service capability) in a total of 75 communities in at

1 least 25 countries abroad for each of the tiers des-
2 ignated pursuant to subsection (a)(2).

3 (2) CONTENTS.—The Commission shall choose
4 communities for the comparison under this sub-
5 section in a manner that will offer, to the extent
6 possible, communities of a population size, popu-
7 lation density, topography, and demographic profile
8 that are comparable to the population size, popu-
9 lation density, topography, and demographic profile
10 of various communities within the United States.
11 The Commission shall include in the comparison
12 under this subsection—

13 (A) a geographically diverse selection of
14 countries; and

15 (B) communities including the capital cit-
16 ies of such countries.

17 (3) SIMILARITIES AND DIFFERENCES.—The
18 Commission shall identify relevant similarities and
19 differences in each community, including their mar-
20 ket structures, the number of competitors, the num-
21 ber of facilities-based providers, the types of tech-
22 nologies deployed by such providers, the applications
23 and services those technologies enable, and the regu-
24 latory model under which broadband service capa-
25 bility is provided.

1 (d) PROTECTION OF INFORMATION.—Nothing in this
2 section shall reduce or remove any obligation the Commis-
3 sion has to protect proprietary information, nor shall this
4 section be construed to compel the Commission to make
5 publicly available any proprietary information. Any infor-
6 mation collected by the Commission pursuant to sub-
7 section (a)(3) that reveals business or marketing plans or
8 any other competitively sensitive or proprietary informa-
9 tion of a provider of broadband service capability, or that
10 is not, in the normal course of business, known or shared
11 by competing providers or made publicly available, shall
12 not be disclosed by the Commission.

13 (e) REGULATIONS.—The Commission shall, within
14 180 days after the date of the enactment of this Act, pro-
15 mulgate regulations to implement this section.

16 **SEC. 3. BROADBAND INVENTORY MAP.**

17 (a) ESTABLISHMENT.—To provide a comprehensive
18 nationwide inventory of existing broadband service capa-
19 bility and infrastructure, the Assistant Secretary for Com-
20 munications and Information of the Department of Com-
21 merce and the NTIA shall develop and maintain a
22 broadband inventory map of the United States that identi-
23 fies and depicts the geographic extent to which broadband
24 service capability is deployed and available from a com-
25 mercial provider or public provider throughout each State.

1 (b) INFORMATION SHOWN.—The broadband inven-
2 tory map developed and maintained pursuant to this sec-
3 tion shall be capable of identifying and depicting, nation-
4 wide, for each State, and for each county or parish of each
5 State—

6 (1) each area encompassed by a United States
7 postal zip code of 9 digit level, census tract level, or
8 functional equivalent in which broadband service ca-
9 pability is deployed at that time, including—

10 (A) each commercial or public provider of
11 broadband service capability within such area;

12 (B) each type of technology used to pro-
13 vide broadband service capability within such
14 area; and

15 (C) which bandwidth service tiers are
16 available within such area for each provider of
17 broadband service capability; and

18 (2) each area encompassed by a United States
19 postal zip code of 9 digit level, census tract level, or
20 functional equivalent in which broadband service ca-
21 pability is not deployed at that time.

22 (c) DATA USE ENCOURAGED.—The NTIA shall seek
23 to overlay demographic data obtained from other sources
24 in the Department of Commerce and elsewhere for use
25 with such broadband inventory map.

1 (d) PUBLIC AVAILABILITY AND INTERACTIVITY.—

2 Not later than 2 years after the date of the enactment
3 of this Act, the NTIA shall make the broadband inventory
4 map developed and maintained pursuant to this section
5 accessible by the public on a World Wide Web site of the
6 NTIA in a form that is interactive for users and search-
7 able by each of the geographic areas specified in sub-
8 section (b).

9 (e) UPDATING.—The NTIA shall update the
10 broadband inventory map developed and maintained pur-
11 suant to this section to ensure that the information pro-
12 vided by the broadband inventory map is timely and accu-
13 rate.

14 (f) OBTAINING INFORMATION.—

15 (1) IN GENERAL.—The NTIA shall request and
16 obtain, from the Commission, eligible entities under
17 section 4, and commercial and public providers of
18 broadband service capability, such information as
19 may be necessary to carry out this section.

20 (2) PRIORITY OF INFORMATION REQUESTS.—

21 The NTIA shall first request and obtain such infor-
22 mation from the Commission or such entities before
23 requesting and obtaining such information from
24 commercial and public providers of broadband serv-
25 ice capability.

1 (3) COMPATIBLE FORMAT.—Such entities or
 2 providers may elect to provide the NTIA with the in-
 3 formation necessary for displaying a statewide map,
 4 provided that such map meets the requirements of
 5 subsection (b) for that State and such information
 6 is in a format that NTIA is able to incorporate into
 7 the broadband inventory map required under this
 8 section.

9 (g) PROTECTION OF INFORMATION.—Nothing in this
 10 section shall reduce or remove any obligation the NTIA
 11 has to protect proprietary information, nor shall this sec-
 12 tion be construed to compel the NTIA to make publicly
 13 available any proprietary information. Any information
 14 obtained by NTIA pursuant to subsection (f) that reveals
 15 business or marketing plans or any other competitively
 16 sensitive or proprietary information of a provider of
 17 broadband service capability, or that is not, in the normal
 18 course of business, known or shared by competing pro-
 19 viders or made publicly available, shall not be disclosed
 20 by NTIA.

21 **SEC. 4. GRANTS TO STATES FOR BROADBAND MAP DEVEL-**
 22 **OPMENT.**

23 (a) IN GENERAL.—The NTIA may, to the extent
 24 amounts are made available pursuant to section 9(b) for
 25 use under this section, make grants to an eligible entity

1 to assist in providing the NTIA with information to facili-
2 tate the development of the broadband inventory map re-
3 quired under section 3.

4 (b) STATE ENTITY APPLICATION AND DESIGNA-
5 TION.—An eligible entity in any State that seeks to obtain
6 a grant under this section shall submit an application to
7 the NTIA at such time, in such form, and containing such
8 information and assurances as the NTIA may require.

9 (c) USE.—Amounts from a grant under this section
10 may be used only for costs involved in developing and ob-
11 taining information necessary to provide the broadband in-
12 ventory map required under section 3.

13 (d) CONDITIONS.—

14 (1) INFORMATION SHARING.—As a condition of
15 receipt of a grant under this section, the eligible en-
16 tity shall agree to provide to the NTIA any informa-
17 tion developed or obtained using such grant
18 amounts.

19 (2) MATCHING REQUIREMENT.—An eligible en-
20 tity may not obtain a grant under this section to
21 carry out the activities under this section unless
22 such entity agrees to provide, from non-Federal
23 funds, an amount equal to not less than 20 percent
24 of the amount of the grant toward the costs of car-
25 rying out such activities.

1 (e) GRANT CRITERIA.—The NTIA shall select an eli-
2 gible entity to receive a grant under this section based
3 upon criteria that shall include—

4 (1) whether such entity requesting a grant is
5 organized on a statewide basis and prepared to de-
6 velop information for use by NTIA on a timely basis;

7 (2) the extent to which financial support from
8 State or other sources is unavailable to such entity
9 to fulfill the objectives of this Act; and

10 (3) whether the denial of such entity’s grant re-
11 quest would—

12 (A) result in the inability of such entity to
13 develop information on a timely or comprehen-
14 sive basis; and

15 (B) result in a gap in the information for
16 that State or otherwise thwart the objectives of
17 this Act.

18 (f) SUBCONTRACTS PERMITTED.—An eligible entity
19 may enter into contracts to carry out subsection (c) and
20 the other requirements of this section.

21 (g) ELIGIBLE ENTITY.—For the purposes of this sec-
22 tion, the term “eligible entity” for any State means—

23 (1) an entity that is either—

24 (A) an agency or instrumentality of that
25 State, or a municipality or other subdivision (or

1 agency or instrumentality of a municipality or
2 other subdivision) of that State; or

3 (B) a nonprofit organization that is de-
4 scribed in section 501(c)(3) of the Internal Rev-
5 enue Code of 1986 and that is exempt from
6 taxation under section 501(a) of such Code;
7 and

8 (2) the entity is the single eligible entity in such
9 State that has been designated by the State to re-
10 ceive a grant under this section.

11 **SEC. 5. GRANTS FOR DEMAND-SIDE BROADBAND SERVICE**

12 **IDENTIFICATION AND ASSESSMENTS.**

13 (a) GRANT AUTHORITY.—From the amounts appro-
14 priated under section 9(c), the Secretary shall establish
15 a grant program to create and facilitate the work of local
16 technology planning entities that represent a broad cross-
17 section of their community, including representatives of
18 business, telecommunications labor organizations, con-
19 sumer organizations, elementary and secondary education,
20 health care providers, libraries, higher education, commu-
21 nity-based organizations, and local government.

22 (b) STATE ENTITY APPLICATION AND DESIGNA-
23 TION.—Each eligible planning entity in any State that
24 seeks to obtain a grant under this section shall submit
25 an application to the NTIA at such time, in such form,

1 and containing such information and assurances as the
2 NTIA may require. Such application shall contain a dem-
3 onstration that—

4 (1) the entity is an eligible planning entity; and

5 (2) the eligible planning entity is the single eli-
6 gible planning entity in such State that has been
7 designated by the State for an exclusive geographic
8 area within the State to receive a grant under this
9 section.

10 (c) USE OF FUNDS.—Grants awarded by the Sec-
11 retary under this section shall be used to assist an eligible
12 planning entity to—

13 (1) assess the current use of broadband service
14 capability across relevant community sectors;

15 (2) set goals for improving or maximizing such
16 use within each sector;

17 (3) develop a plan for achieving the eligible
18 planning entity's goals, with specific recommenda-
19 tions for identifying and spurring demand for such
20 capability;

21 (4) collaborate with providers of broadband
22 service capability and other high technology compa-
23 nies to encourage the deployment and use of
24 broadband service capability in unserved and under-
25 served areas;

1 (5) identify local demand for broadband service
2 capability and aggregate such demand;

3 (6) establish programs, but not acquire equip-
4 ment or facilities, to improve computer ownership
5 and Internet access for unserved and underserved
6 populations; and

7 (7) facilitate the exchange of information re-
8 garding the use and demand for broadband service
9 capability between the public and private sectors.

10 (d) PROHIBITION.—Funds made available by a grant
11 under this section shall not be used for the provision of
12 broadband service capability or the acquisition of equip-
13 ment or facilities for such capability, except that this pro-
14 hibition shall not prohibit an eligible planning entity’s use
15 of such funds to acquire broadband service capability or
16 equipment or facilities for such capability for use by such
17 entity in its own conduct of planning activities.

18 (e) ELIGIBLE PLANNING ENTITY.—For the purposes
19 of this section, the term “eligible planning entity” for any
20 State means—

21 (1) an agency or instrumentality of that State,
22 or a municipality or other subdivision (or agency or
23 instrumentality of a municipality or other subdivi-
24 sion) of that State; or

1 (2) a nonprofit organization that is described in
2 section 501(c)(3) of the Internal Revenue Code of
3 1986 and that is exempt from taxation under section
4 501(a) of such Code.

5 **SEC. 6. CONSUMER SURVEY OF BROADBAND SERVICE CA-**
6 **PABILITY.**

7 (a) **AUTHORITY.**—The Commission shall conduct and
8 make public periodic surveys of consumers of broadband
9 service capability in urban, suburban, and rural areas in
10 the large business, small business, and residential con-
11 sumer markets to determine the following:

12 (1) The type of technology used to provide the
13 broadband service capability to which the consumer
14 subscribes.

15 (2) The amount the consumer pays per month
16 for such capability.

17 (3) The actual data transmission speeds of such
18 capability.

19 (4) The types of applications and services the
20 consumer most frequently uses in conjunction with
21 such capability.

22 (b) **PUBLIC AVAILABILITY.**—The Commission shall
23 make publicly available the results of surveys conducted
24 under this section at least once per year.

1 **SEC. 7. CONFIDENTIALITY OF CONSUMER INFORMATION.**

2 (a) IN GENERAL.—The Commission shall, within 180
3 days after the date of the enactment of this Act, promul-
4 gate regulations—

5 (1) to protect the confidentiality of personal
6 consumer information collected for the purposes of
7 this Act;

8 (2) to require the Commission, the NTIA, and
9 each other entity that collects or controls such infor-
10 mation for the purposes of this Act (including any
11 eligible entity under section 4, eligible planning enti-
12 ty designated under section 5(b)(2), and commercial
13 and public provider of broadband service capability)
14 to protect the confidentiality of such information;
15 and

16 (3) to permit such information to be disclosed
17 by such entities only to the extent consistent with
18 the provisions and for the purposes of this Act, or
19 with the prior express authorization of the consumer
20 to whom it pertains.

21 (b) LIMITATION.—The regulations promulgated
22 under subsection (a) shall not preclude the ability of any
23 consumer or other person or entity to search, by individual
24 street address, the broadband inventory map developed
25 and maintained pursuant to section 3, or any of the indi-
26 vidual State maps which may compose it.

1 **SEC. 8. STATE OR LOCAL AUTHORITY.**

2 Except as provided in section 7, nothing in this Act
3 shall be construed to expand or limit the authority of
4 States or units of local government to compel the collec-
5 tion of information.

6 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

7 (a) IN GENERAL.—There is authorized to be appro-
8 priated to carry out this Act—

9 (1) \$12,000,000 for fiscal year 2008;

10 (2) \$12,000,000 for fiscal year 2009; and

11 (3) \$12,000,000 for fiscal year 2010.

12 (b) BROADBAND MAP INFORMATION DEVELOPMENT
13 GRANTS.—Of any amounts appropriated in each fiscal
14 year pursuant to subsection (a), not less than \$8,000,000
15 shall be available only for grants under section 4.

16 (c) LOCAL TECHNOLOGY PLANNING GRANTS.—In
17 addition to the amount appropriated under subsection (a),
18 there is authorized to be appropriated to make grants
19 under section 5—

20 (1) \$50,000,000 for fiscal year 2008;

21 (2) \$100,000,000 for fiscal year 2009; and

22 (3) \$150,000,000 for fiscal year 2010.

23 **SEC. 10. DEFINITIONS.**

24 For the purposes of this Act, the following definitions
25 shall apply:

1 (1) BROADBAND SERVICE CAPABILITY.—The
2 term “broadband service capability” means an Inter-
3 net Protocol-based transmission service that enables
4 users to send and receive voice, video, data, graph-
5 ics, or a combination, without regard to any trans-
6 mission media or technology.

7 (2) COMMISSION.—The term “Commission”
8 means the Federal Communications Commission.

9 (3) NTIA.—The term “NTIA” means the Na-
10 tional Telecommunications and Information Admin-
11 istration of the Department of Commerce.

12 (4) PERSONAL CONSUMER INFORMATION.—The
13 term “personal consumer information”—

14 (A) means information that allows a
15 human being to be identified individually;

16 (B) includes the following information with
17 respect to an individual:

18 (i) the first and last name;

19 (ii) a home or physical address;

20 (iii) a date or place of birth;

21 (iv) an email address or a telephone
22 number;

23 (v) a Social Security account number,
24 tax identification number, birth certificate
25 number, passport number, driver’s license

1 number, or any other any government-
2 issued identification number; or

3 (vi) a credit card number or bank ac-
4 count or card number; and

5 (C) does not include any record of aggre-
6 gate information that does not permit the iden-
7 tification of particular individuals.

8 (5) PROVIDER.—

9 (A) PUBLIC PROVIDER.—The term “pub-
10 lic” when used with respect to a provider of
11 broadband service capability means a provider
12 that is an agency or instrumentality of a State,
13 or a municipality or other subdivision (or agen-
14 cy or instrumentality of a municipality or other
15 subdivision) of a State, regardless of the facili-
16 ties used.

17 (B) COMMERCIAL PROVIDER.—The term
18 “commercial” when used with respect to a pro-
19 vider of broadband service capability means a
20 provider that offers broadband service capa-
21 bility for a fee, or on an advertising-supported
22 basis, directly to the public or to such classes
23 of users as to be effectively available to the
24 public, regardless of the facilities used.

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of Commerce.

3 (7) STATE.—The term “State” means the
4 States of the United States, the District of Colum-
5 bia, the Commonwealth of Puerto Rico, Guam, the
6 Virgin Islands, American Samoa, the Northern Mar-
7 iana Islands, and any other territory and possession
8 of the United States.

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